

**Firestone Issue – October 14, 2006**

Dear Mr. Howatt,

We had expected to hear from you regarding issues to be discussed, but have not heard from you so far today. I would like the following issue included on the list of issues to be discussed at the Commission Hearing, and I assume that given that it is about process going forward rather than substance that you had not intended to include it on your initial list. It would be useful to hear from both DNREC and the Commission on this issue at the hearing.

There is a procedure spelled out in the Rules of the Commission for judicial review. In this case, the RFP approval is to be a joint decision by the Commission and Energy Office (DNREC).

1. Will this be considered a final decision subject to judicial review or is this considered interlocutory, with judicial review only occurring after the four state agencies have made their decision to approve one or more proposals?
2. If the issuance of the RFP is subject to judicial review, what procedures for perfecting appeal apply, given its joint nature?

I may have substantive issues to add once I have had an opportunity to review the Commission Staff list.

Respectfully submitted,

Jeremy Firestone